

CALIFORNIA WATER PLAN UPDATE 2009
REGIONAL TRIBAL WATER PLENARY MEETING #5

Central Valley Waters

convened by California Rural Indian Health Board, May 22, 2009, Sacramento, CA

MEETING SUMMARY

Table of Contents

(1) Opening Prayer and Welcome.....	1
(2) The California Water Plan Update 2009 and Tribal Engagement.....	2
(3) <u>Presentation</u> : Miwko' Waali': Wepa', Wakace', 'Olles (Plains Miwok World: From the Mountains and Rivers to the Ocean).....	3
(4) <u>Presentation</u> : Central Valley Groundwater.....	3
(5) <u>Presentation</u> : Mercury Contamination and Fish Consumption Issues.....	4
(6) <u>Presentation</u> : Bay Delta Conservation Plan.....	5
(7) <u>Lunchtime Briefing</u> : 2009 Drought Response.....	6
(8) <u>Lunchtime Briefing</u> : CalEMA Tribal Emergency Preparedness Program.....	6
(9) <u>Presentation</u> : Federal Energy Regulatory Commission Dam Relicensing.....	7
(10) <u>Review</u> : Inter-Tribal Water Commission and Redwood Valley Regional Tribal Water Plenary.....	8
(11) <u>Presentation</u> : The Sacredness of Water.....	8
(12) Closing Prayer.....	9
(13) Attendance.....	9
(14) Mind Map.....	10

(1) Opening Prayer and Welcome

Atta Stevenson welcomed people to the meeting and Don Hankins provided an opening prayer. People then introduced themselves.

Mark LeBeau, California Rural Indian Health Board, also welcomed people and provided some context. CRIHB was formed in 1969 initially with nine Tribes, for the purpose of restoring health care to Indian people which had been withdrawn by the federal government. Through litigation, this purpose was achieved in the 1970s, and included medical care for Indians not affiliated with federally recognized Tribes. Along with its various programs, CRIHB tries to assist with funding for Tribes to participate in the California Water Plan Update. Mark emphasized that the State must come forward to enable Tribal participation. CRIHB will lobby for funding for traditional people, leaders, rural, and urban Indians.

Randy Yonemura, California Indian Heritage Commission, explained that he is involved in these issues as an Indian, regardless of his Tribal affiliation and any status labels. He noted he has been working to preserve sacred ancestral places for 18 years, and he was taught that it is his responsibility to get involved. He gets frustrated sometimes but feels it is important to work to protect water and all its relations and the environment. He thanked everybody for coming to learn and discuss issues dealing with sacred water and protection.

Kamyar Guivetchi, Manager for Statewide Integrated Water Management, California Department of Water Resources, also welcomed people. He noted that the California Water Plan has greatly changed its update process in the past decade, including a dedicated focus on Tribal outreach and participation. He noted this is one of a series of seven Regional Tribal Water Plenary meetings designed to lay a foundation for a statewide California Tribal Water Summit later this year.

Atta Stevenson also welcomed people and encourage them to recognize that water naturally has no boundaries and should remain free and part of the circle of life. She noted that good quality water was particularly important, but that Indian Health Services was absent. The Department of Defense is responsible for munitions dumps and associated water contamination, but is also absent. The commercialization of water and housing development are other major concerns, including how these affect groundwater. She thanked DWR for opening communication and listening, even if they cannot understand and get bombarded with information and historical feelings. She hoped people would take something from the meeting today, whether friendships or new connections or partnerships and knowledge.

Dorian Fougères, facilitator with the Center for Collaborative Policy, lastly welcomed people and explained he would assist in moving the meeting along and the discussions.

(2) The California Water Plan Update 2009 and Tribal Engagement

Kamyar described the collaborative processes which led to the development of the Public Review Draft of the California Water Plan Update 2009, for which comments are due to DWR by June 5, 2009. The full set of slides from Kamyar's presentation can be downloaded under the Regional Tribal Water Plenary materials on the main Tribal Communication webpage, <http://www.waterplan.water.ca.gov/tribal2>

Barbara followed Kamyar's presentation with a summary of Tribal participation in the process to date. She reviewed the work of the Tribal Communication Committee, which had been meeting since October 2007 and produced a Tribal Communication Plan in the summer of 2008; the Tribal Water Stories Project; and the Tribal Water Summit planning process. Barbara explained that all people with an interest are encouraged and invited to participate in the monthly planning meetings for the Summit. Barbara indicated that input from each Regional Tribal meeting will be shared with following meetings.

In the discussion, it was noted that water must be viewed in the larger perspective of supporting all life. It was strongly emphasized that the highest levels of state government must recognize and respect the wisdom of Tribes, and that the current system for representing Tribes in the Water Plan process needs to be improved. It was commented that the Native American Heritage Commission is not bringing forward Tribal interests into the Water Plan process, despite being on the Water Plan's State Agency Steering Committee.

It was noted that the current Water Plan work is a step in the right direction of consultation, and that some Tribes will continue to avoid the Water Plan because they view a government-to-government relationship as only a relationship with the federal government. It was suggested that the Water Plan should develop a Tribal Advisory Committee for its 2013 update. The need for Tribes to get involved with local government water planning was also noted.

Another participant emphasized that state agencies and Water Plan activities need to get their messages to the right people and leaders within a Tribe, and that this can be very hard. It was suggested that people with important water information and materials need to demand to get on the agendas of Tribal councils, and to not take “no” for an answer from staff or lawyers. Staff often may not consider water important and lawyers may not view it as a policy or revenue issue, so they do not share the information with their leaders and councils.

(3) Presentation: Miwko’ Waali’: Wepa’, Wakace’, ‘Olles (Plains Miwok World: From the Mountains and Rivers to the Ocean)

Professor Don Hankins, Ph.D., (Valley Miwok, CSU Chico) made a presentation on traditional and contemporary natural resources management from the Plains Miwok point of view. Professor Hankins’ presentation can be downloaded under the Regional Tribal Water Plenary materials on the main Tribal Communication webpage, <http://www.waterplan.water.ca.gov/tribal2>. As native populations declined due to European settlement, resource management declined, leading to significant decline in the natural resources which supported Native cultures. In the Delta wetlands areas, land subsidence due to farming and levees has caused significant impact. Current approaches to “fix” the Delta come with issues. These and many other issues present opportunities for cultures and governments to work together for the survival of future generations.

In response to a question about how to deal with the losses to culture, Professor Hankins encouraged people to spend time with elders and learn from them and others, and to document traditional ways using all media. For example, Queensland, Australia, has nearly identical resource management issues, and is documenting traditional knowledge. He recommended the Traditional Knowledge Revival Pathways website (<http://tkrp.com.au>).

In response to a question about the impact of stream flows on ground water recharge, Professor Hankins described the Tuscan Aquifer in Butte County where the ground water basins are overused. Burning in traditional ways minimizes evapotranspiration, leaving more water in streams to percolate to ground water. Using ground water in amounts greater than replenishment causes many adverse impacts.

(4) Presentation: Central Valley Groundwater

Tito Cervantes, Senior Land and Water Use Scientist from DWR’s Northern Region Office, gave a presentation on ground water and surface water issues. Tito’s presentation can be downloaded

under the Regional Tribal Water Plenary materials on the main Tribal Communication webpage, <http://www.waterplan.water.ca.gov/tribal2>. Evidence shows that fires in fact restore stream flows. The San Joaquin Valley is overdrafting ground water to a point of mining ground water. Changes from electrical to diesel power have adversely impacted air quality. Currently there are no state laws to govern beneficial use of ground water. Domestic water quality is impacted by septic systems, as 80% of new wells are for domestic purposes. He invited Tribes to join in collecting precipitation station data and monitoring ground water. Monitoring gives important information to the cooperators as well as state agencies. He offered to assist Tribes wishing advice.

Pat Parsons, DWR Northern Region Office, spoke about DWR's data collection system, which dates to the 1960s and before. Byproduct of data collection are maps that can be useful for water management decisions. He reiterated the need for more partners in data collection. Tito indicated that the needs of Tribes are reflected passively in the Water Plan Update, but with more data about Tribal water resources, DWR could more directly address Tribal water needs. It was suggested that Tribes could protect their interests better through monitoring their ground water. A participant who had worked with Tito and Pat thanked them for their extensive help with mapping and data needs in recent years. Tito and Pat offered to provide mapping assistance to other interested people.

In response to a question about development pressures and local water agencies' apparent low level of interest in water conservation, DWR staff indicated that some counties are becoming proactive in documenting their water uses, but there is little water planning at the county level. Water elements are not required in General Plans.

(5) Presentation: Mercury Contamination and Fish Consumption Issues

Sherri Norris, Executive Director of the California Indian Environmental Alliance, presented on mercury contamination in California and associated fish consumption and health concerns. Sherri's presentation can be downloaded under the Regional Tribal Water Plenary materials on the main Tribal Communication webpage, <http://www.waterplan.water.ca.gov/tribal2>. Sherri noted that in international and state-level negotiations on mercury Tribes are left out; she offered to train people who are interested in getting involved. Sherri explained how mercury moves through the environment, from gold and mercury mining (and dredging) through mixing with decaying plant matter and methylation and microorganisms and into fish, which then accumulate mercury and are eaten by people. She noted that there are studies about the scale of contamination but these have to be carefully interpreted – a water body may not have an advisory because it has not yet been tested, not because it has been certified as clean. She then explained possible health effects, and closed with healthy diets and eating practices. She also distributed a fish consumption brochure which is also posted on the website, and encouraged people to sign up for CIEA's monthly newsletter, which is distributed electronically. More information is available on the CIEA website.

In response to a question, Sherri explained that methylated mercury is stored in the fish tissue, you cannot see it or cut it out. The larger portion you eat, the larger the risk. At the same time, while there are risks, there are health benefits from eating fish, so this must be balanced. For the latest information and consumption guidelines, including which fish are more and less risky, she again encouraged people to visit their website.

(6) Presentation: Bay Delta Conservation Plan

Karla Nemeth, California Natural Resources Agency, presented the history and an update on the Bay Delta Conservation Plan, including an overview of the environmental, hydrological, and regulatory stressors affecting the Sacramento-San Joaquin River Delta ecosystem. Karla's presentation can be downloaded under the Regional Tribal Water Plenary materials on the main Tribal Communication webpage, <http://www.waterplan.water.ca.gov/tribal2>. She described how water currently flows through the Delta region, and proposals for how it could flow in the future. She described the effects of proposals on habitat conservation and other stressors. Regarding the outreach process for the "aggressive" schedule for developing the concurrent California Environmental Impact Report and federal Environmental Impact Statement processes, she indicated a need to talk with Tribes.

In response to a question about proposed water transfers promoted by Central and Southern California interests like Westlands and Metropolitan Water Districts, she indicated that transfers are outside the scope of the BDCP. The focus of the BDCP is on conveyance and holistic approaches to environmental issues. She said that north/south water transfers would still need to consider water rights and effects on the delta for water supply reliability. It was replied that having corporations at the same table as public agencies meant that the agencies had a conflict of interest and could not be neutral.

In response to a question about who would control restoration lands and what standards they would use, she indicated that DWR and others would be permittees, but who manages habitat restoration is not yet determined.

It was stated that downstream users' interests were being addressed at the expense of California Indians, who are all affected by the Bay-Delta, and that the BDCP should look at Tribal water rights. Karla replied that Tribes are being considered in the CEQA/NEPA process.

In response to a question about whether water flows supersede water quality, Karla replied that all are interrelated: salinity, turbidity, directions of flow, fishery needs, reliability of export water supply. It was noted that many Tribes rely on fish for sustenance. A concern that the plan might also support invasive species was also raised.

In response to a question about the current lack of Tribal consultation on the impacts of proposed canal alignments on villages and traditional plants, Karla replied that what she is describing today is narrowly focused on the Endangered Species Act and recovery of specific species over time. This process has to merge with the entire environmental review process of the Delta Habitat Conservation and Conveyance Plan.

A participant noted that the National Environmental Policy Act states that Section 106 (National Historic Preservation Act) consultation begins early in a project planning process, not after drafts and alternatives have been drawn. Tribes should therefore be part of the early development and changes as they occur. Since they have not been, lawsuits may be filed to enforce Tribal rights. It was noted that the alignment of a peripheral canal will run through historical Miwok lands and therefore require consultation.

In response to a question about who the key decision-makers are in the process, and who Tribal leaders should be talking with, Karla replied that state and federal fishery agencies will decide to issue permits based on the efficacy of this plan. The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and other federal agencies are part of the process. More information can be found on the Bay Delta Conservation Plan website, <http://resources.ca.gov/bdcp/> under the Steering Committee Members link. It was noted that Tribes are not represented on the steering committee.

Kamyar Guivetchi noted that the Water Plan had had similar challenges in learning how to communicate with and appropriately involve Tribes, and was still learning. He offered to share the Water Plan's Tribal Communication Plan with BDCP.

(7) Lunchtime Briefing: 2009 Drought Response

Following lunch, Kamyar gave an update on the current drought situation and drought response. Kamyar's presentation can be downloaded under the Regional Tribal Water Plenary materials on the main Tribal Communication webpage, <http://www.waterplan.water.ca.gov/tribal2>. The Governor's February 2009 Drought Proclamation ordered certain short term and long term actions including water transfers and a water bank, and long-range planning. Detailed information is posted to the DWR Drought web page: <http://www.water.ca.gov/drought/>. DWR and the California Emergency Management Agency (CalEMA) are working together on public outreach, which could include workshops for Tribes. He indicated that the State Water Resources Control Board is dealing with temporary measure affecting water rights.

(8) Lunchtime Briefing: CalEMA Tribal Emergency Preparedness Program

Denise Banker, Tribal Advocate, California Emergency Management Agency (CalEMA), briefed participants on the role of this new agency. CalEMA was formed from the Governor's Office of Homeland Security and Governor's Office of Emergency Services at the start of 2009, and now has responsibility for both areas of activity. The agency has clear linkages to water issues because both flooding and drought issues are emergencies. The agency is currently reorganizing its divisions, so the exact location of Tribal programs is not year clear.

CalEMA coordinates grants per strict guidance. Few Tribes meet criteria for direct federal funding, yet HR 1 provides that no state agency can force Tribes to go through states to receive Homeland Security funding. So, there is now a 1% allotment reserved for Tribes, which is \$246,000 for California, but the federal government requires states to work through associations that speak for all or a substantial number of Tribes. The agency recently initiated a new program designed to build capacity and establish a governance structure for California Native American Tribes to decide how homeland security and emergency management funds are allocated. To meet federal requirements, CalEMA selected the Inter-Tribal Council of California as the sub-grantee. CalEMA and ITCC, along with the Attorney General's Office of Native American Affairs and consultants, have formed a work team to develop the process and materials, including a larger advisory group of Tribal leaders, technical experts, and state and local government officials. A two-day Summit will be hosted in August for Tribal leaders and their emergency coordinators, and their federal, state, and local government counterparts.

In response to a question about where population figures were drawn from, Denise explained these came from the census. It was noted that census categories may be problematic. It also was noted that it was not clear where non-federally recognized Tribes would be counted.

In response to a question about how outreach to Tribes and Tribal communities would be conducted, Denise noted that after the Summit there would be a series of regional meetings in different parts of California. Furthermore, the work team would be drawing information from several lists of Tribal leaders and also building a communication list and network for the project.

In response to a question about whether the project would support preventative measures, Denise explained that all parts of emergency management and homeland security – from planning and prevention through response through recovery – were being considered.

It was commented that tsunamis are a concern in coastal areas, and that there had to be plans for where displaced populations can go. In many emergencies there is no dedicated land or water available.

(9) Presentation: Federal Energy Regulatory Commission Dam Relicensing

Ron Goode, Chairman of the North Fork Mono Tribe, thanked DWR for opening the door to Tribal participation, and encouraged all to join the Tribal Water Summit Planning Team. He explained that the State of California needs to learn how to take care of the resources managed by Native Californians for thousands of years, which have been destroyed by non-Indians in only 150 years.

Ron went on to discuss negotiating, specifically with federal power license permitting, and relicensing. First, he suggested with any project to identify the Lead Agency. Only the Lead Agency signs off on a project. Tribes can and should create their own conditions for the project, separate from the agency.

In response to the comment that Tribes are seldom represented in these processes, Ron noted that the leverage is in the laws. He advised learn the rules to play the game and negotiate settlement, and that people identify from the beginning what leverage they have. For power project relicensing, the Federal Energy Regulatory Commission requires a negotiated settlement. Ron emphasized the need for Tribal unity with regard to upcoming relicenses, so they have a common vision, can pool their funds for legal advice and advocacy, and can increase their power.

In response to a question about how to ensure salmon runs return when the agencies refuse to enter salmon in the study, Ron explained that it is important to enter a “Motion to Intervene,” which can be entered at any point, and becomes part of the record. Ron recommended Tribes speak for themselves, and be sure their letter says “Motion to Intervene.”

Ron closed by explaining that there are levels of stakeholders at the table. Very few Tribal leaders show up, even though they are signatory parties. They need to assert their right to be involved. Federal Lead Agencies will listen to Tribal leaders or those delegated by letter from the Tribe.

(10) Review: Inter-Tribal Water Commission and Redwood Valley Regional Tribal Water Plenary

Steve Archer encouraged support for the Inter-Tribal Water Commission. He encouraged Tribes to learn about the policy process and act accordingly. Atta Stevenson described the purpose of the Inter-Tribal Water Commission as carrying on a fight for Tribal water issues. The Water Commission has given itself homework to honor the teachings of elders who are long-gone. She asked participants to take the Water Commission message home, and discuss among their Tribes – what’s going on with water at home? Educate yourselves about water. She indicated the Water Commission is no longer affiliated with the Inter-Tribal Council of California.

Atta reviewed notes from the March 10, 2009 Regional Tribal Plenary at Redwood Valley. Her Tribe in the region no longer has water or fish. The County’s water has been taken by another county. She itemized the issues raised in that meeting about Tribal and aboriginal water rights. The full notes from the Redwood Valley will be posted with materials from that meeting can be downloaded under the Regional Tribal Water Plenary materials on the main Tribal Communication webpage, <http://www.waterplan.water.ca.gov/tribal2>

(11) Presentation: The Sacredness of Water

Mark Franco, Headman of the Winnemem Wintu, spoke about each person in the room bringing something to the group. His job is to take what holy people say back to the people. He hopes people listen with their heart to others who talk from their hearts. He emphasized that everybody needs to know and remember where water comes from, where it goes, and what happens in between. He noted that FERC is supposed to assign Tribal Liaisons to a project upon request,

but FERC now allows private power entities to consult with Tribes on behalf of FERC. He stressed that people must remember water is sacred, not a commodity. Water and fire are now confused; too many Tribes are selling their water in bottles. Sacred fires are not being lit, so water doesn't come. Yet the Creator doesn't put up with you for too long if you don't pay attention to warnings. He encouraged people to think ahead three generations and make drastic life changes for the benefit of our grandchildren. People have to be willing to dedicate their life so people can carry on.

(12) Closing Prayer

Ron Goode closed the meeting with a prayer song.

(13) Attendance

- | | |
|--|--|
| 1) Allen E. Adams, United Auburn Indian Community | 17) David Jaber, Independent/Tribal P2 |
| 2) Jared Aldern, Prescott College | 18) Bill Jacobson, Social Alliance Network |
| 3) Lesley Albright, DWR Delta Habitat Conservation and Conveyance Plan | 19) Karla Nemeth, California Resources Agency |
| 4) Denise Banker, California Emergency Management Agency | 20) Sherri Norris, California Indian Environmental Alliance |
| 5) Xavier Tito Cervantes, DWR Northern District | 21) Pilar Oñate-Quintana, KP Public Affairs |
| 6) Yolanda Chavez, AES | 22) Patrick Parsons, DWR Northern District |
| 7) Barbara Cross, California Department of Water Resources | 23) David Perlovich, Inter-Tribal Council of California |
| 8) Diane Elam, Center for Collaborative Policy, CSUS | 24) Denise Pollard, Ft. Bidwell, Cultural Horizons |
| 9) Dorian Fougères, Center for Collaborative Policy, CSUS | 25) Dean Rogers, Robinson Rancheria |
| 10) Mark Franco, Winnemem Wintu | 26) Oscar Serrano, Colusa Indian Community |
| 11) Cuauhtemoc Gonzalez, Governor's Office of Planning and Research | 27) Lynda M. Speer, Pomo Fort Bragg |
| 12) Ron Goode, North Fork Mono Tribe | 28) William Speer, Sr., Shasta Indian Nation |
| 13) Loretta Greycloud, Inter-Tribal Council of California | 29) Atta P. Stevenson |
| 14) Julie Griffith-Flatter, Sierra Nevada Conservancy | 30) Matt Swearingner, Cortina Rancheria |
| 15) Don Hankins, Miwko/CSU Chico | 31) Mike Thornton, Sierra Fund |
| 16) Rudy Inong, Grindstone Rancheria | 32) Jonathan Whipple, Me-wuk/Pomo |
| | 33) Jerri White Turtle, Todds Valley Miwok and Maidu Cultural Foundation |
| | 34) Leah Wills, Maidu Summit |
| | 35) Randy Yonemura |

Issues Identified at California Water Plan Update 2009 Central California Regional Tribal Water Plenary Meeting, May 22, 2009

